

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

IRMA PEREZ GUILLERMETY,

Plaintiff,

v.

CIVIL NO. 98-2332 (RLA)

UNITED STATES, UNITED STATES  
POSTAL SERVICE,

Defendants.

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U.S. DISTRICT COURT  
SAN JUAN, P.R.

**ORDER DISMISSING COMPLAINT**  
**FOR LACK OF JURISDICTION**

Defendant has moved the Court to dismiss the complaint arguing that plaintiff failed to properly present an administrative claim. For the reasons stated herein we find that this Court lacks jurisdiction to entertain this suit and it must therefore, be dismissed.

**THE FACTS**

Plaintiff slipped and fell in the premises of the U.S. Postal Service on **September 2, 1997**. According to plaintiff her fall was caused by holes and fissures in the floor.

Plaintiff submitted an administrative claim pursuant to the Federal Tort Claims Act ("FTCA") indicating that the fall had taken place at the **"Bayamon Gardens (East) Post Office"**. A second administrative claim again indicated that the accident occurred in the same location. The complaint filed in this action as well as

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1  
2 plaintiff's Initial Scheduling Memorandum reiterated that  
3 plaintiff's fall occurred at the "**Bayamon Gardens Office**". It was  
4 not until the on site inspection carried out by the parties on  
5 **September 30, 1999** that defendant was alerted for the first time  
6 that the slip and fall had taken place at the **Bayamon Branch**,  
7 another post office at a different location.  
8

#### 9 THE LAW

10 The FTCA mandates that claims sounding in tort be first  
11 submitted to the pertinent agency for disposition. The filing of  
12 an administrative claim pursuant to 28 U.S.C. § 2675(a) is a  
13 jurisdictional requirement. The purpose of this provision is for  
14 the agency to have sufficient information to be able to investigate  
15 the claim and attempt to settle the matter. Santiago-Ramirez v.  
16 Secretary of Dep't of Defense, 984 F.2d 16, 19 (1<sup>st</sup> Cir. 1993).  
17 Plaintiff's sole argument in opposition to the dismissal is that the  
18 precise site of the accident is not an indispensable data and that  
19 the agency eventually ascertained this information during discovery  
20 in this case. However, we find that in these particular  
21 circumstances identifying the post office where a slip and fall is  
22 alleged to have occurred is fundamental to an investigation. How  
23 else can the defendant verify the accuracy of the allegations,  
24 identify potential witnesses, and process the claim? No  
25 investigation can even begin without first knowing where the  
26

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1  
2 allegedly negligent conditions which prompted the accident are  
3 located. Further, the fact that this information came to light as  
4 part of discovery in this case does not correct the deficient claim.  
5 In order for this fact to have any bearing it must be provided  
6 initially to the agency precisely to allow for an opportunity to  
7 avoid judicial proceedings.  
8


## CONCLUSION

9  
10 It appearing from the undisputed facts in the record that  
11 plaintiff did not comply with the jurisdictional prerequisites of  
12 28 U.S.C. § 2675, the United States' Motion to Dismiss, filed on  
13 October 29, 1999 (docket No. 26)<sup>1</sup> is **GRANTED**. Accordingly, the  
14 complaint filed in this case is hereby **DISMISSED** for lack of  
15 jurisdiction.  
16

17 Judgment shall be entered accordingly.

18 IT IS SO ORDERED.

19 In San Juan, Puerto Rico, this 9<sup>th</sup> day of December, 1999.

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RAYMOND L. ACOSTA

United States District Judge

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<sup>1</sup> See Memorandum of Points and Authorities in Opposition...  
filed on November 24, 1999 (docket No. 29).